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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,047	06/27/2003	Gary Lester Chastine	9D-HR-19652	7923

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EXAMINER

ZEC, FILIP

ART UNIT PAPER NUMBER

3744

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,047

Applicant(s)

CHASTINE, GARY LESTER

Examiner

Filip Zec

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/30/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/30/2005 has been entered.

Claim Objections

2. Claim 4 is objected to because of the following informalities:
- Claim 4 (line 2) recites the limitation "said lower compartment". Presumably, this should be - - said third compartment - -. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,232,071 to Wallenbrock et al., in view of U.S. Patent 3,759,053 to Swaneck.
- Wallenbrock discloses applicant's basic inventive concept, a refrigerator (10, FIG. 1),

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comprising a refrigeration compartment (22, FIG. 2), a freezer compartment (21, FIG. 2) adjacent said refrigeration compartment and a third compartment (15, FIG. 2) adjacent said freezer compartment and separated from said refrigeration compartment and freezer compartment by a dividing wall (40, FIG. 1) comprising a duct (45, FIG. 1) extending through said wall, from top to bottom surface of said wall (see FIG. 1, area 45), which contains a damper (62, FIG. 2), a fan (27, FIG. 2) and provides an airflow between said compartments (third compartment and freezer compartment; col 2, lines 66-72; col 3, lines 63-70), said freezer compartment comprising an evaporator (24, FIG. 1) and said third compartment controllable in both refrigeration and a freezer mode (col 2, lines 66-72; col 3, lines 63-70), substantially as claimed with the exception of stating that the duct is located entirely in the dividing wall, having an inlet in the top of the freezer compartment. Swaneck shows a duct (70, FIG. 1), located entirely in a dividing wall (26), having an inlet in the top (14) of the freezer compartment. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Swaneck to modify the system of Wallenbrock, by having the duct located entirely in the dividing wall, with an inlet in the top of the freezer compartment in order to provide a direct flow between the compartments insuring a quick chill feature (abstract).

5. Claims 3, 4, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,232,071 to Wallenbrock et al., in view of U.S. Patent 3,759,053 to Swaneck, as applied to claim 1 above, and further in view of U.S. Patent 5,758,512 to Peterson et al. Wallenbrock in view of Swaneck discloses applicant's basic inventive concept, a refrigerator comprising a refrigeration compartment, a freezer compartment adjacent said refrigeration compartment and a

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third compartment adjacent said freezer compartment wherein said third compartment is controllable in both refrigeration and a freezer mode, substantially as claimed with the exception of stating that the evaporator housing contains an evaporator fan for circulating the air inside said compartment, having a secondary fan in the duct and a lower compartment being pulled out like a drawer. Peterson shows an evaporator fan (54, FIG. 1), a secondary fan (56) in a duct (see FIG. 3a) and a lower compartment (32) being pulled out like a drawer (see FIG. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Peterson to modify the system of Wallenbrock in view of Swaneck, by having an evaporator fan in order to circulate the air in the freezer chamber (FIG. 3a), adding a secondary fan in order to improve the flow control through the duct and a drawer compartment in order to improve the accessibility of the refrigerator.

6. Claims 8-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,551,252 to Lee, in view of U.S. Patent 5,758,512 to Peterson et al. and in view of U.S. Patent 3,759,053 to Swaneck. Lee discloses applicant's basic inventive concept, a refrigerator system, comprising an upper compartment (15, FIG. 1) including an evaporator (17) and a fan (18) therein, both enclosed within a chamber (H) having a cover (19) with an inlet (21, FIG. 2) vent and an outlet (28) for a duct (80) containing a gate damper (51), which connects the upper compartment to a lower compartment, said lower compartment (32) separated from the upper compartment via a dividing wall (30) having a top and bottom surface, and having a supply conduit (80) which connects the upper and lower compartments and a secondary duct (75) for air communication between the two compartments when the damper is open, said fan circulating partially evaporative air when the damper is sealed (col 5, lines 17-28), substantially as claimed

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with the exception of having a secondary fan in the duct, having a lower compartment being pulled out like a drawer and stating that the duct is located entirely in the dividing wall, having an inlet in the top of the freezer compartment. Peterson shows a secondary fan (56) in a duct (see FIG. 3a) and a lower compartment (32) being pulled out like a drawer (see FIG. 1).

Swaneck shows a duct (70, FIG. 1), located entirely in a dividing wall (26), having an inlet in the top (14) of the freezer compartment. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Peterson and Swaneck to modify the system of Lee, by adding a secondary fan in order to improve the flow control through the duct, a drawer compartment in order to improve the accessibility of the refrigerator and having the duct located entirely in the dividing wall, with an inlet in the top of the freezer compartment in order to provide a direct flow between the compartments insuring a quick chill feature (abstract).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,055,826 to Hiraoka, Toshie et al. teaches a refrigerator with multiple compartments.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec
Examiner
Art Unit 3744


CHERYL J. TYLER
PRIMARY EXAMINER

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